

UNITED STATES DISTRICT COURT

for the
District of New MexicoIn the Matter of the Search of
(Briefly describe the property to be searched
or identify the person by name and address)Body of Landen TOLEDO
(year of birth 2003)Case No. 22mr1041

APPLICATION FOR A WARRANT BY TELEPHONE OR OTHER RELIABLE ELECTRONIC MEANS

I, a federal law enforcement officer or an attorney for the government, request a search warrant and state under penalty of perjury that I have reason to believe that on the following person or property (identify the person or describe the property to be searched and give its location):
The body of Landen Toledo

located in the _____ District of _____ New Mexico _____, there is now concealed (identify the person or describe the property to be seized):
DNA which will be extracted by way of buccal swab

The basis for the search under Fed. R. Crim. P. 41(c) is (check one or more):

- ☒ evidence of a crime;
☐ contraband, fruits of crime, or other items illegally possessed;
☐ property designed for use, intended for use, or used in committing a crime;
☐ a person to be arrested or a person who is unlawfully restrained.

The search is related to a violation of:

Code Section	Offense Description
18 U.S.C. § 1153	Offenses Committed in Indian Country
18 U.S.C. § 1111(a)	2nd-Degree Murder
18 U.S.C. § 2	Aiding and Abetting

The application is based on these facts:
See attached affidavit

☒ Continued on the attached sheet.

☐ Delayed notice of _____ days (give exact ending date if more than 30 days: _____) is requested under 18 U.S.C. § 3103a, the basis of which is set forth on the attached sheet

Applicant's signature

Molly Schommer, FBI Special Agent

Printed name and title

Attested to by the applicant in accordance with the requirements of Fed. R. Crim. P. 4.1 by
_____ telephone _____ (specify reliable electronic means).

Date: 07/06/2022City and state: Albuquerque, New Mexico

Steven C. Yarbrough, United States Magistrate Judge

Printed name and title

AFFIDAVIT IN SUPPORT OF A SEARCH WARRANT

AFFIDAVIT IN SUPPORT OF AN APPLICATION FOR A SEARCH WARRANT

INTRODUCTION AND BACKGROUND

1. I, Molly Schommer, being first duly sworn, make this affidavit in support of an application under Rule 41 of the Federal Rules of Criminal Procedure for a warrant to search the body of Landen TOLEDO, Year of Birth (“YOB”) 2003, a member of the Navajo Nation, to collect Deoxyribonucleic Acid (“DNA”) samples by way of buccal swabs and major case prints. I believe TOLEDO’S DNA may be present on an aluminum baseball bat and/or golf club that were located in the bed of TOLEDO’S 1997 Chevrolet CK1500 pickup truck that was parked outside of TOLEDO’S residence. TOLEDO is currently not in custody. However, based on my training and experience and the facts set forth in this affidavit, there is probable cause to believe that violations of 18 U.S.C. §§ 1153, 1111(a), and 2, that being Offenses Committed within Indian Country, 2nd-Degree Murder, and Aiding and Abetting, have been committed by TOLEDO.

2. I am a Special Agent with the Federal Bureau of Investigation (“FBI”) and have been so employed since April of 2021. As such, I am a federal law enforcement officer within the meaning of Rule 41 of the Federal Rules of Criminal Procedure. I am currently assigned to the Violent Crime Task Force (“VCTF”) at the Albuquerque Field Office of the FBI. I primarily investigate Indian Country cases, such as homicide, sexual assault, along with gang-criminal enterprises and Drug Trafficking Organizations (“DTOs”) involved in the unlawful possession of firearms, distribution of controlled substances, racketeering activities, and conspiracies associated with these offenses. I have received on the job training from other experienced agents, detectives, and correctional officers in the investigation of gangs and criminal organizations. My investigative training and experience includes, but is not limited to, the FBI Training Academy at Quantico, Virginia; interviewing subjects, targets, and witnesses; writing affidavits for, and executing search

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and arrest warrants; collecting evidence; conducting surveillance; and analyzing public records. In addition, I have received advanced training and instruction from local agencies related to Indian Country offenses and narcotics and firearms trafficking. Through my training and experience both as an FBI Special Agent and city and county prosecutor, I am familiar with techniques used by criminal actors, DTOs, gangs, and criminal enterprises.

3. As a result of my training and experience and my knowledge of this investigation, I know that various objects may be used as murder weapons and tools of the trade and instrumentalities of criminal enterprises, particularly in instances involving homicides by blunt force. Additionally, persons who commit homicides with blunt objects tend to have those objects on their person, in their residence, or left at an alternative location after the homicide is committed. I am also aware that when individuals handle various objects, their DNA is often left behind and is detectable by lab technicians.

4. The facts in this affidavit come from my personal observations, my training and experience, and information obtained from other law enforcement agencies, agents, and witnesses. Because this affidavit is submitted for the limited purpose of securing a search warrant, I have set forth only those facts I believe are necessary to establish probable cause to support a search warrant to collect TOLEDO'S DNA and major case prints.

STATEMENT OF PROBABLE CAUSE

5. In the early morning of May 28, 2022, Navajo Nation Police Department (NNPD) and FBI responded to the residence belonging to S.A., a member of the Navajo Nation, YOB 1980, hereinafter "John Doe". John Doe's residence is located within the exterior boundaries of the Navajo Nation. John Doe was found behind a building near his vehicle. A NNPD officer observed a large amount of blood coming from his head and that his pupils were dilated. John Doe was

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gurgling and snoring but still breathing. John Doe had a huge bump on his left arm, his fingers were scratched, and his knee was scraped. John Doe was transported by ambulance to the hospital. Numerous interviews were conducted by the FBI and NNPD, as explained further in this affidavit.

6. John Doe died on May 30, 2022, from blunt head trauma, and underwent an autopsy on May 31, 2022. There was a large laceration that exposed John Doe's skull and blunt trauma on the left side of John Doe's head. John Doe had a skull fracture and extensive bleeding around, inside, on top, and throughout his brain.

7. J.P., YOB 1978, hereinafter "Witness 1", stated the night before the incident (May 27, 2022), there was an altercation at Witness 1's residence, which is on the Tohajiilee Chapter of the Navajo Nation. John Doe was at the residence with Witness 1. One male subject, C.S., YOB 2004, hereinafter "Subject 2"¹, went over to Witness 1's residence and was talking about a bag. Subject 2 wanted to fight Witness 1 and John Doe. Witness 1 told Subject 2 to leave ten times. Subject 2 and John Doe fought on the road. Subject 2 punched Witness 1, and Witness 1 stated he/she called the police.

8. I.S., YOB 1992, hereinafter "Witness 2", stated the night of the incident, May 27, 2022, John Doe picked up Witness 2 and went to the barn at John Doe's residence on the Tohajiilee Chapter of the Navajo Nation, which is within the exterior boundaries of the Navajo Nation. John Doe and Witness 2 pulled up to John Doe's residence just before midnight. John Doe pulled up to his residence, turned off the engine, and took the keys out of the ignition. John Doe's ex-girlfriend, S.A., YOB 1982, hereinafter "Witness 3", was at the residence when John Doe pulled up. John Doe and Witness 2 remained in the vehicle. Witness 3 would not leave John Doe's residence.

¹ Subject 2's driver's license photograph is attached for reference to Subject 2's Instagram account.

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9. Witness 3 saw three males wearing all black come to the residence and begin asking for bags. These individuals opened the door of the vehicle Witness 2 and John Doe were inside and started fighting. Witness 3 left because he/she was scared.

10. Witness 2 saw four males come onto the residence. One male had a silver golf club and was standing by the barn. A second male was standing kind of close to this male with the golf club as a possible lookout. The two remaining males, one of which was believed to be Subject 2 who Witness 2 described as having big hair, walked up to the vehicle Witness 2 and John Doe were still inside. These two males opened the passenger side door of the vehicle where Witness 2 was seated, spoke over Witness 2, and stated to John Doe, who was in the driver's seat, "We want his bag back." Subject 2 was saying that John Doe stole his backpack. There was no backpack and John Doe stated he did not have their belongings. The two males then closed the passenger door, stood there, and then all four males left the same way they came.

11. Witness 2 stated the four males then came back to the vehicle, but from behind the barn this time. All four males went to the driver's side of the vehicle, pulled open the door, pulled John Doe out of the vehicle, and started beating up John Doe. John Doe retrieved an aluminum baseball bat. However, the males took the baseball bat and used it to hit John Doe with. All four males were hitting John Doe. Witness 2 saw the males swinging the bat, kicking and punching John Doe, and heard them cussing.

12. Witness 2 hid behind some vehicles that were parked on the residence. Witness 2 heard, "He's down," "He's out," "He's not moving," and, "Let's just go." The four males left on foot.

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13. Witness 2 went to where John Doe was, looked at John Doe, and saw John Doe would not wake up and laid there with no response. Witness 2 called his/her uncle/aunt, Witness 1, and told him/her what happened. 911 was called.

14. On May 28, 2022, FBI agents and NNPD officers spoke with TOLEDO. TOLEDO grew up with Subject 2 and Subject 2's younger brother, C.S., YOB 2006 (juvenile), hereinafter "Subject 3". On the evening of May 27, 2022, TOLEDO was with Subject 2. TOLEDO initially stated he met up with Subject 2 at Subject 2's grandmother's house and that Subject 2 was not in TOLEDO'S truck nor the bed of his truck on the evening of May 27, 2022. However, TOLEDO later stated he picked up Subject 2 at the courts and then dropped him off by the cattle guard. When TOLEDO was informed that John Doe was probably going to die, TOLEDO responded, "We all are."

15. Parked in front of TOLEDO'S residence was a 1997 Chevrolet CK1500 pickup truck. TOLEDO admitted this was his truck and everything in it belonged to him. TOLEDO provided verbal and written consent for FBI agents and NNPD officers to search his truck. Recovered from the bed of the pickup truck was an aluminum baseball bat and a silver golf club. Present on the baseball bat was a dried substance which, based on my training and experience, I believe is dried blood. When asked about the discovery of the baseball bat, TOLEDO stated he got the baseball bat from Subject 2 who had it at the courts on the night of May 27, 2022.

16. On June 3, 2022, FBI agents and NNPD officers attempted to speak with Subject 3, who was believed to be a subject due to the following statements. After multiple attempts of trying to locate Subject 3, he was eventually found at his grandmother's residence in Tohajiilee, New Mexico. Subject 3's mother described this residence as a safe haven for Subject 2 and Subject 3. Subject 3 believed law enforcement were speaking to him because he heard from his auntie and

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mother that Subject 2 killed someone. Furthermore, Subject 3 stated, "People are saying it was me," and, "That's why I was wondering if you guys were coming to arrest me. That's that's what I thought." Finally, Subject 3 stated, "I don't know why I'm shaking cause I thought you guys were going to arrest me," and, "Cause people are blaming it on me." Subject 3 no longer wanted to answer questions and the interview was ended.

17. On June 3, 2022, FBI agents and NNPD officers spoke with R.S. (minor), hereinafter "Witness 4". Witness 4 heard about the assault that happened to John Doe. Witness 4 knows that Subject 2 and Subject 3 like to fight people. Witness 4 is friends with Subject 2 on Instagram. Subject 2's Instagram account is "wastedd2x". Witness 4 showed FBI agents and NNPD officers Subject 2's Instagram page. Subject 2's most recent Instagram post showed him with a thick amount of hair². A few days after the assault of John Doe Witness 4 and Subject 2 had a conversation on Instagram³:

- a. Witness 4: "Wanna call"
- b. Subject 2: "For What?"
- c. Subject 2: "Lol"
- d. Witness 4: "I just need some humble"
- e. Witness 4: "Atleast a brother or someone"
- f. Subject 2: "I Kant Kall Rn"
- g. Subject 2: "Im In Sum BS Rn"
- h. Subject 2 "IDK If You Heard"
- i. Witness 4: "What happened"

² A photograph of Subject 2's recent Instagram post is attached at the end of this affidavit.

³ A photograph of the messages is attached at the end of this affidavit.

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- j. Witness 4: "And nah I didn't hear anything."
- k. Subject 2: "Well I Kant Tell You Rn Buh Im Pretty Sure You'll Hear Bout It"
- l. Witness 4: "Oh okay"
- m. Witness 4: "Well text me when u can"
- n. Subject 2: "Fs"

18. On June 3, 2022, a NNPD officer received a photograph and a screenshot⁴ from Subject 2's Instagram and Facebook accounts from C.G., YOB 1985, hereinafter "Witness 5". Witness 5 received these images from his/her nephews/nieces, A.S., YOB 2007 (minor), hereinafter "Witness 6", and K.A., YOB 2008 (minor), hereinafter "Witness 7". There was a screenshot of a story posted by Subject 2 which stated, "I'm just prayin' Cdai beat his case, with murder on my mind (that's a fact)"⁵. There was also a photograph of a post made by Subject 2 to his Facebook account, "Kole Stakkin", which stated, "Everything Happens For A Reason. I Just Wanted My Personal Belongings Bakk". On June 21, 2022, Witness 5 sent a screenshot⁶ he/she received from Witness 7. That screenshot was of Subject 2's Instagram story, which stated, "Fuhk Dat Nigga Who Dead N Fuhk Who Ever Dats Riding Wit Him". On June 22, 2022, Witness 5 sent a screenshot⁷ of Subject 2's up to date Instagram page.

19. On June 23, 2022, an FBI agent and NNPD officer spoke with Witness 6. About one year ago, Subject 2 said he would kill John Doe. Witness 6 did not know why. Subject 2 always hurts people and gets in trouble for fighting at school. Witness 6 knows Subject 2 to hang out with TOLEDO and a possible fourth subject. Subject 2 texts Witness 6 via Instagram direct

⁴ The photograph and screenshot are attached at the end of this affidavit.

⁵ These words are lyrics from the song "Game Face" by Booka600, Only the Family, and Tee Grizzley.

⁶ The screenshot is attached at the end of this affidavit.

⁷ The screenshot is attached at the end of this affidavit.

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message but Witness 6 does not respond back. The last two times Subject 2 texted Witness 6 were on June 3, 2022, and June 20, 2022⁸. Witness 6 had no texting contact with Subject 2 prior to the death of his/her uncle, John Doe.

20. On June 3, 2022, Subject 2 texted Witness 6:

- a. Subject 2: "Bruhh Ion Even Fuhk Witxhu Like Dat"
- b. Subject 2: "Stop Viewing My Shii"
- c. Subject 2: "Lil Weirdo"

21. On June 20, 2022, Subject 2 texted Witness 6:

- a. Subject 2: "Bruhh Stop Viewing My Shii"
- b. Subject 2: "Just Kause Yo Unk Dead Asfk Dont Mean You Gotta Stokk My Shi"
- c. Subject 2: "Lame Ass"

22. On June 23, 2022, an FBI agent and NNPD officer spoke with Witness 7. Witness 7's father was John Doe. Witness 7 does not follow Subject 2 on social media but knows that Subject 2 has both an Instagram and Facebook account as Subject 2's social media accounts are public. Subject 2 will post on social media and then Subject 2 will delete these posts. Witness 7 will take screenshots of the posts prior to Subject 2 deleting them. Subject 2 has two Instagram accounts and posts on both accounts. One account is "wastedd2x" and the other account is "activistkole". Witness 7 showed the FBI agent and NNPD officer these two Instagram accounts⁹ and what "wastedd2x" looked like previously, which had "All Souls Gonna Die Dont Forget Dat 1 Tho" written in the biography. Witness 7 also took a screenshot¹⁰ of Subject 2's Facebook story,

⁸ A photograph of these text messages is attached at the end of this affidavit.

⁹ A photograph of Subject 2's two Instagram accounts and what "wastedd2x" looked like previously are attached at the end of this affidavit.

¹⁰ A photograph of the screenshot is attached at the end of this affidavit.

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which stated, “Kaught A Body I was Just Praying Dat God Forgive Me [emoji] Niggas Really Walking Around Wit Thoughts Of Killing Me [emoji] Buh God Please Forgive Them Not Knowing I Keep Dat Blikk On Me [emoji]”.

CONCLUSION

23. Based on the information contained herein, I believe probable cause exists indicating TOLEDO violated 18 U.S.C. §§ 1153, 1111(a), and 2, that being Offenses Committed within Indian Country, 2nd-Degree Murder, and Aiding and Abetting. As such, I am seeking authorization to collect DNA samples and major case prints from TOLEDO to be utilized in the examination of the evidence collected in this matter, specifically to compare with any DNA that is found on evidence collected in this matter.

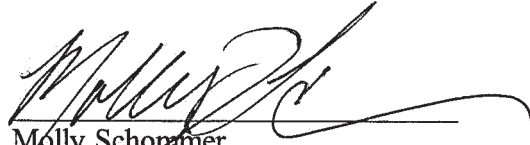
24. The aluminum baseball bat and golf club were collected for further testing. I intend to send the aluminum baseball bat and golf club to the FBI Laboratory for latent fingerprint and DNA testing. I will request the laboratory compare any potential DNA found on the aluminum baseball bat and golf club to the DNA of TOLEDO.

25. Based on the information contained herein, I believe probable cause exists to search TOLEDO for the purpose of obtaining DNA samples by buccal swabs and major case prints pursuant to Rule 41 of the Federal Rules of Criminal Procedure.

26. This affidavit was reviewed and approved by Supervisory Assistant United States Attorney Kyle Nayback.

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Respectfully Submitted,

A handwritten signature in black ink, appearing to read 'Molly Schommer', with a long, sweeping horizontal line extending to the right.

Molly Schommer
Special Agent
Federal Bureau of Investigation

SUBSCRIBED TO AND SWORN ELECTRONICALLY ON JULY 6, 2022.

A handwritten signature in blue ink, appearing to read 'Steve Yarbrough', with a stylized, cursive script.

HONORABLE STEVEN C. YARBROUGH
UNITED STATES MAGISTRATE JUDGE
DISTRICT OF NEW MEXICO

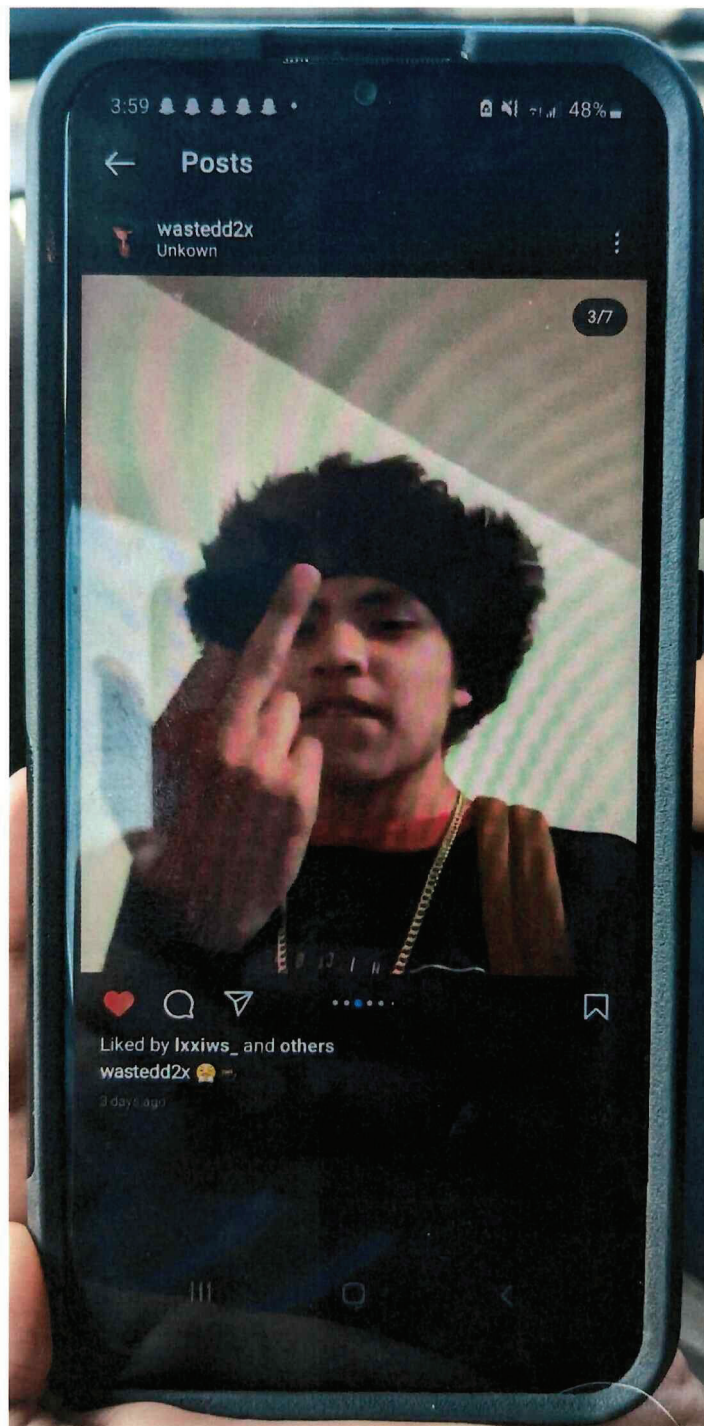
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PHOTOGRAPH AND SCREENSHOT ATTACHMENTS



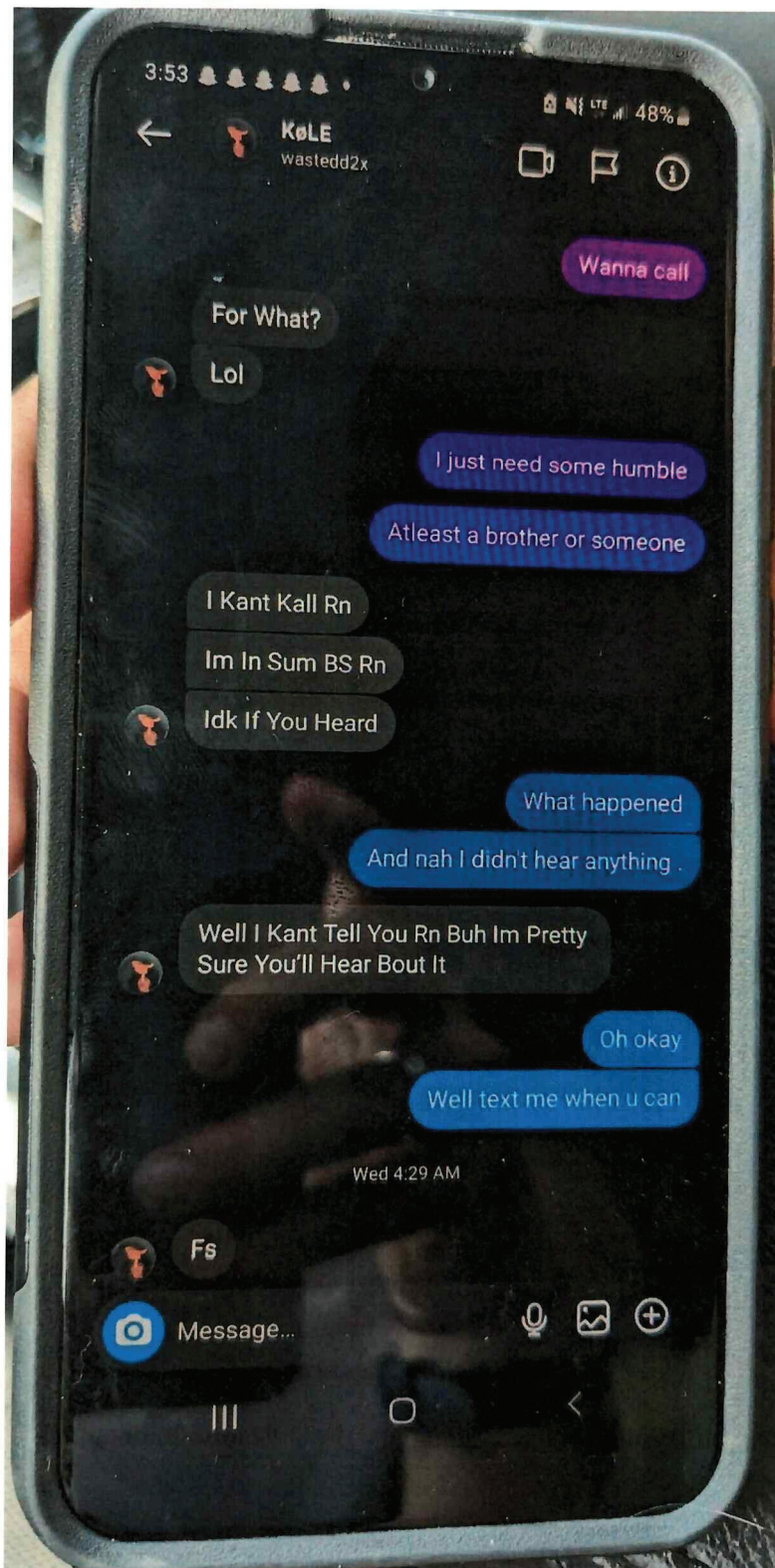
Subject 2's driver's license photograph.

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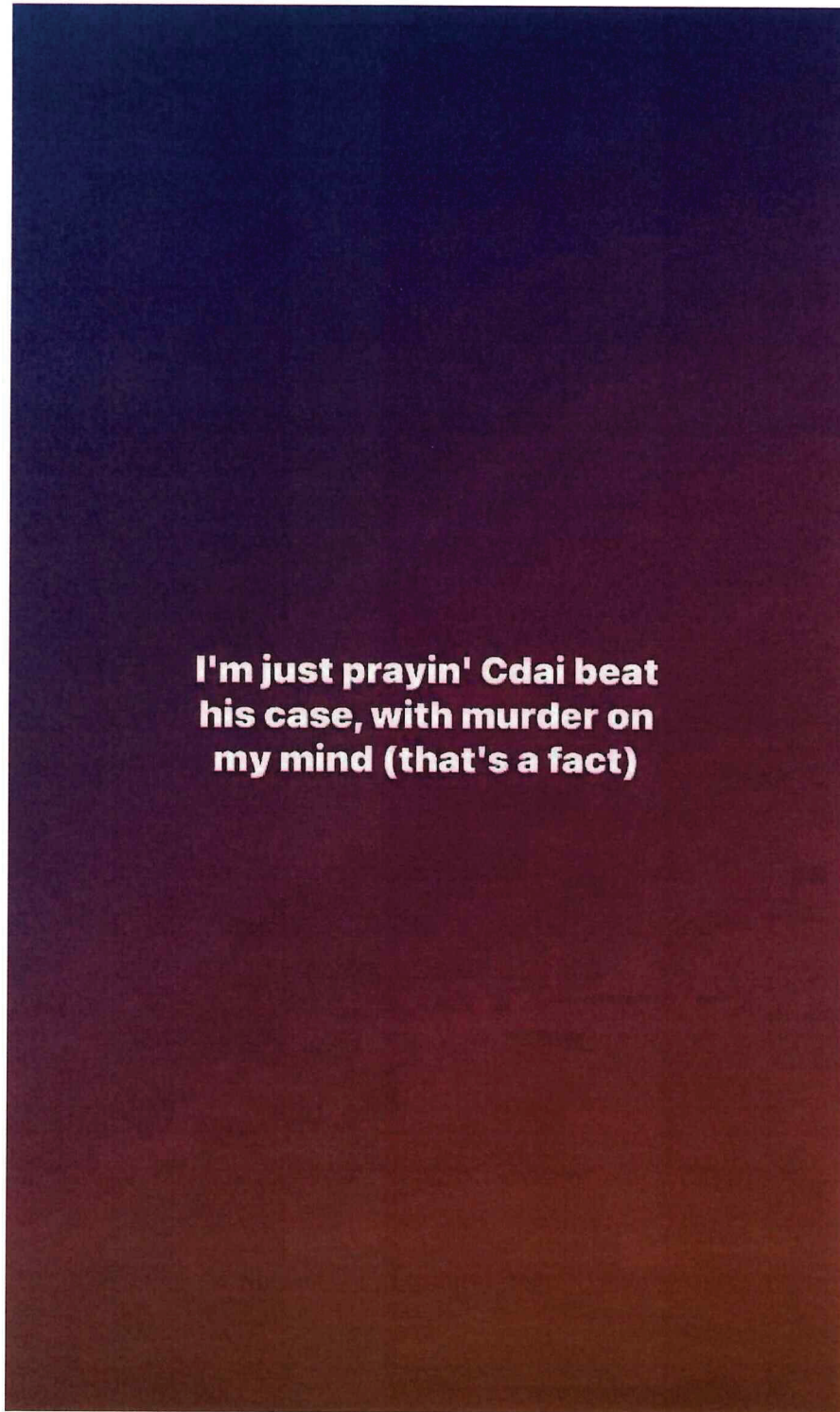
Photograph of Subject 2's recent Instagram post.

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Photograph of Subject 2's Instagram messages with Witness 4.

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Screenshot of Subject 2's story.

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Photograph of Subject 2's Facebook post.

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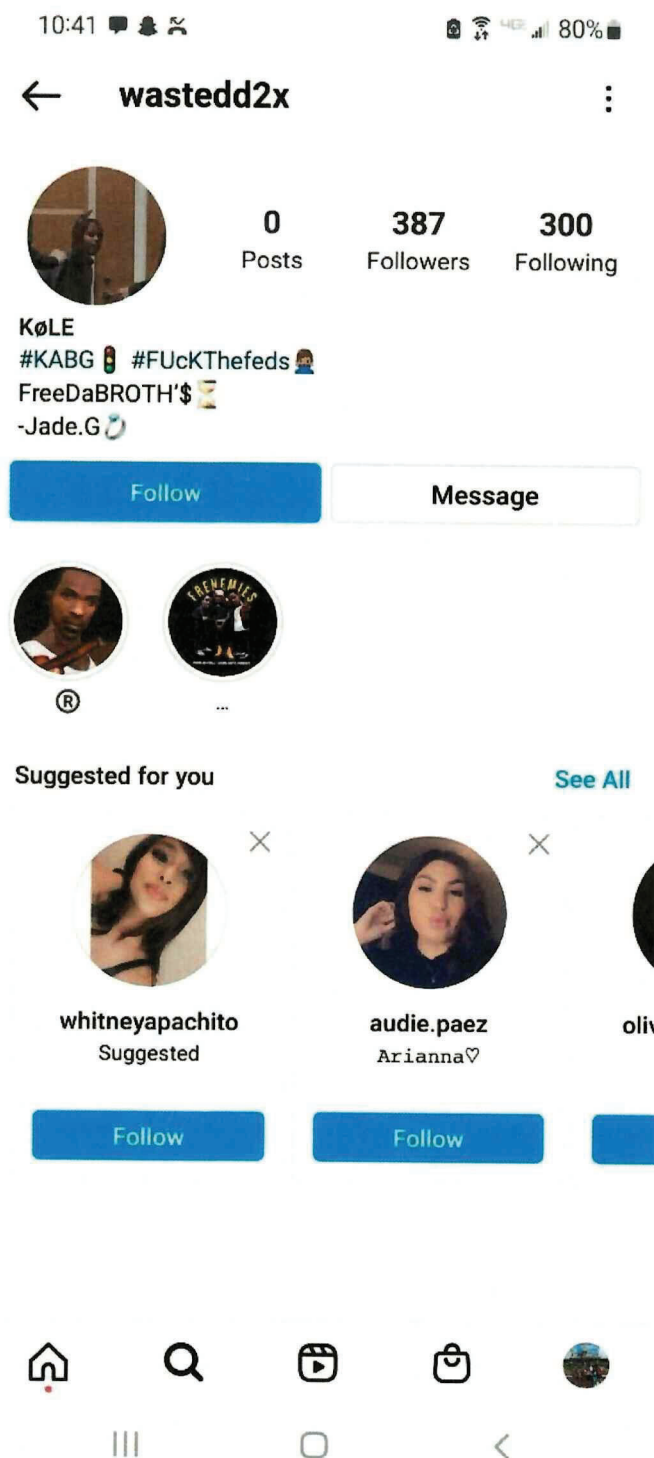
Screenshot from Subject 2's Instagram story.

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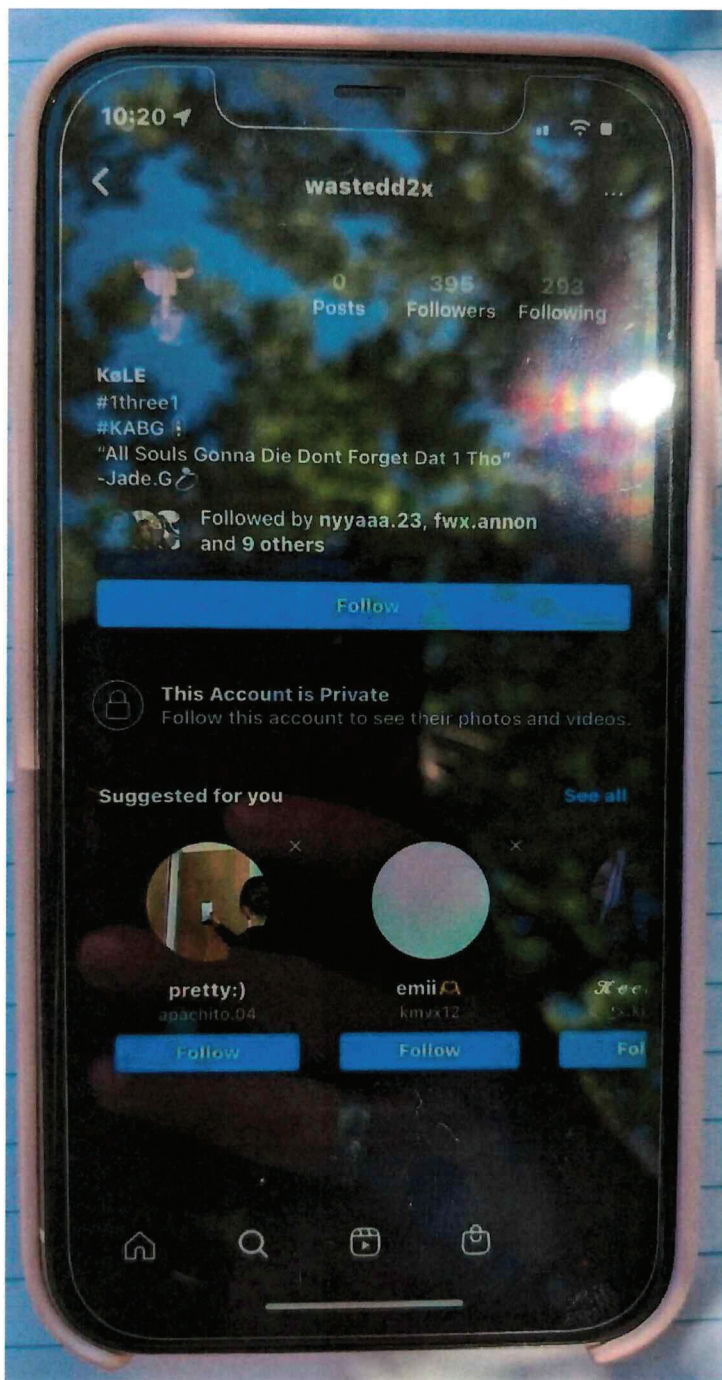
Photograph of text messages from Subject 2 to Witness 6.

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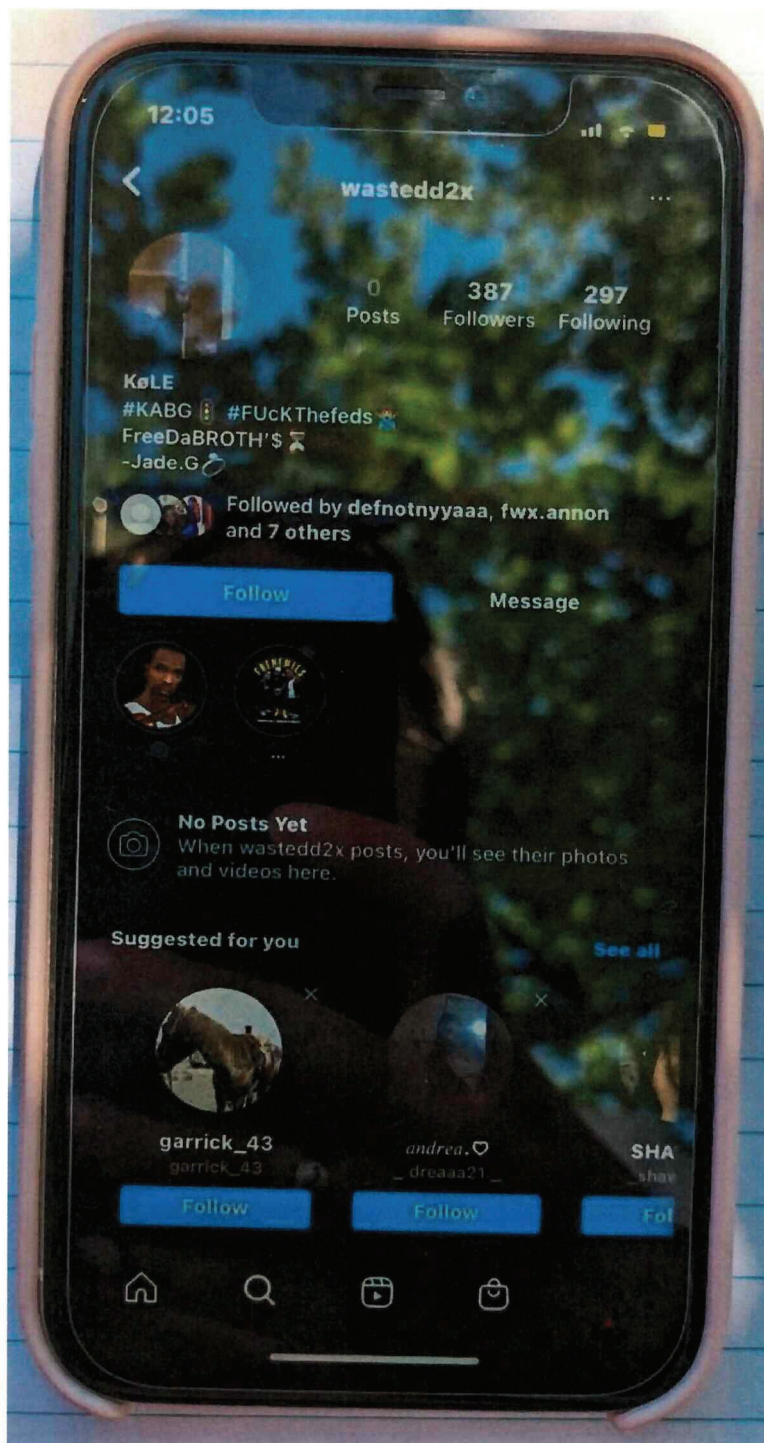
Screenshot of Subject 2's up to date Instagram page from Witness 5.

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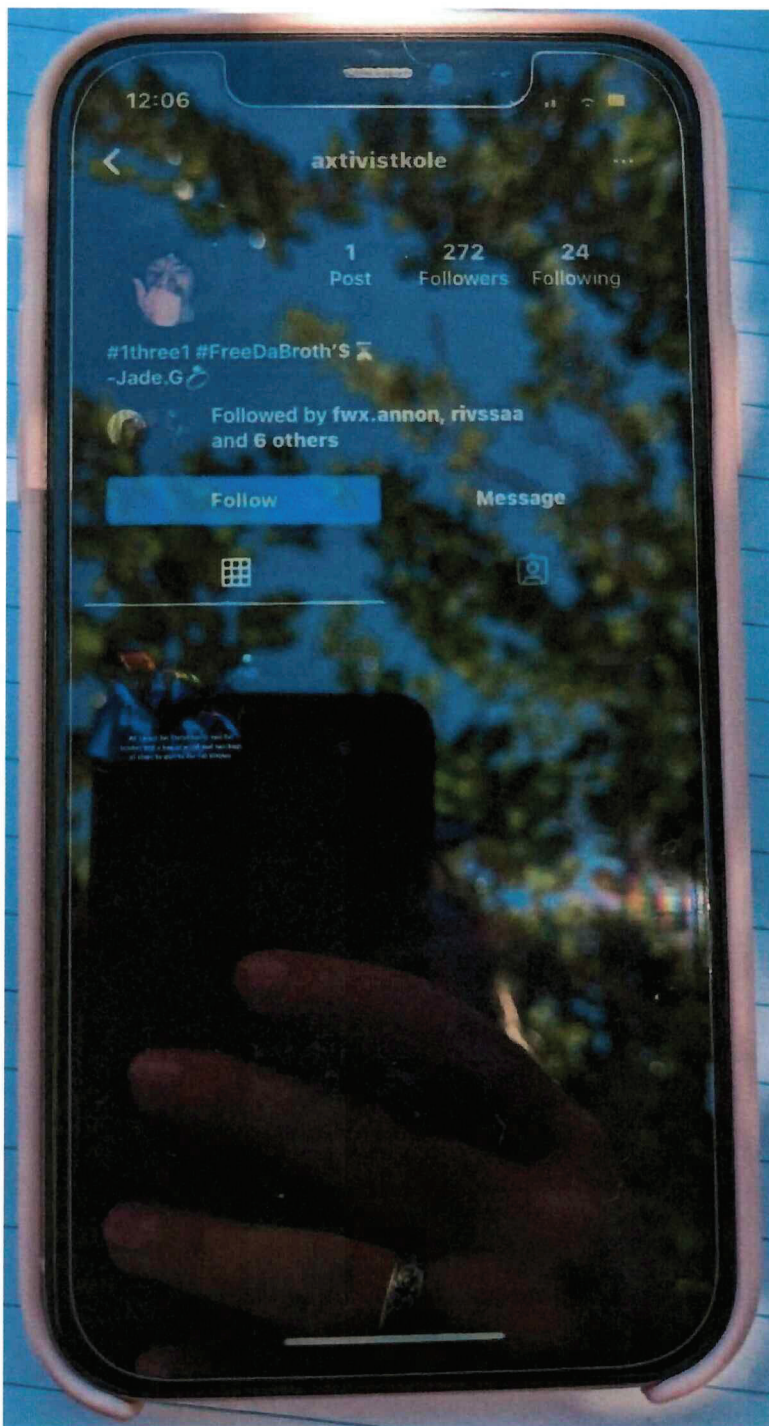
Photograph of Subject 2's Instagram account, "wastedd2x", as it looked previously.

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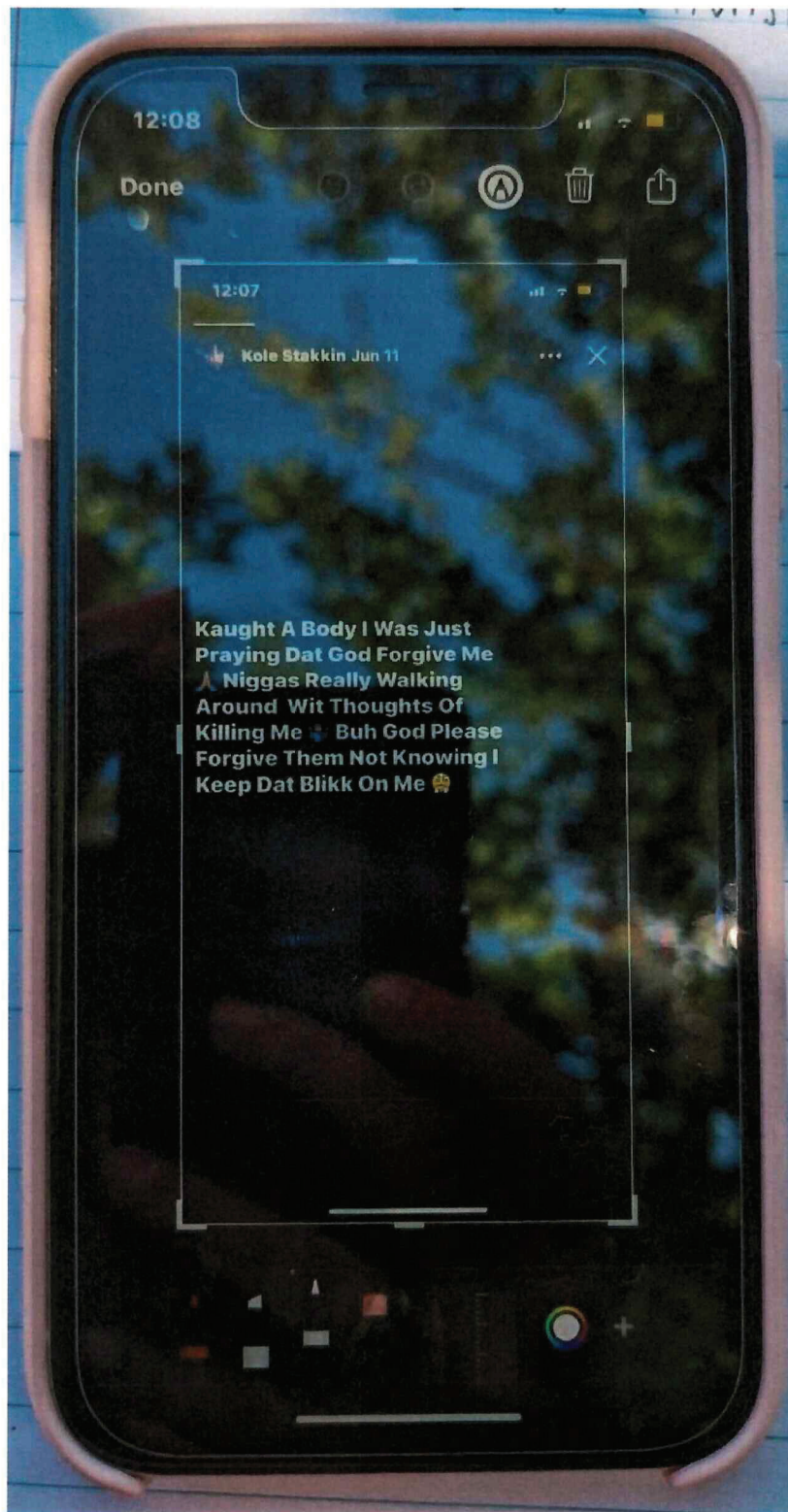
Photograph of Subject 2's Instagram account, "wastedd2x", as of June 23, 2022.

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Photograph of Subject 2's Instagram account, "axtivistkole", as of June 23, 2022.

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Photograph of Subject 2's Facebook story.

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ATTACHMENT A

Person to Be Searched

The person to be searched is Landen TOLEDO, DOB 10/21/2003, whose photograph is shown below:



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ATTACHMENT B

Property to Be Seized

1. DNA samples, via buccal (cheek) swabs, and major case prints from Landen TOLEDO.